HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 1140 OF 2006

Between:

G. Naga Sekhara

..... Appellant

AND

The Vice Chairman & Managing Director,
APSRTC, Musheerabad, Hyderabad & others

.....Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri A. Rama Rao

Counsel for the respondents : Shri P. Vinayaka Swamy

Dated: 03.11.2006

Per G.S.SINGHVI, CJ

In this appeal, which is the third round of litigation by the appellant in the matter of licence granted to him to operate STD Booth at Andhra Pradesh State Road Transport Corporation's (for short, 'the Corporation') Old Bus Station, Ananthapur (hereinafter described as 'the Old Bus Station'), the appellant has prayed for setting aside order dated 01.08.2006 passed by the learned Single Judge in Writ Petition No.14977 of 2006, whereby she refused to quash Tender Notification dated 10.07.2006 issued by the Regional Manager of the Corporation.

On the basis of the bid given by him, the appellant was granted licence to install and run the STD Booth at the Old Bus Station for a period of six years commencing from 07.10.2004. Clause 18 of the deed of licence, which has bearing on the decision of this appeal reads as under:

> "18. The licensee has to run the business for a period of 6 years. If the licensee desires to vacate the premises for what so ever reasons before completion of licence period of 6 years, the licensee has to pay the balance amount which falls short of the amount equivalent to stipulated licence period. However, the licensor has right to terminate the licence with a month's notice without assigning any reason thereof in the interest of the Corporation."

After one year and about four months, Divisional Manager, Anantapur issued notice dated 13.02.2006 to the appellant and called upon him to vacate the space allotted for running the STD

booth on the ground that the Old Bus Station was proposed to be closed for establishing the office of the Regional Manager. The appellant questioned the legality of the notice in Writ Petition No.6468 of 2006, which was disposed of by the learned Single Judge on 03.04.2006 with the direction that the representation made by the writ petitioner (appellant herein) be decided within a period of two weeks from the date of receipt of copy of the order. In compliance of the Court's direction, the Regional Manager passed order dated 18.04.2006 vide which he rejected the appellant's prayer by observing that his licence had been terminated in accordance with the terms and conditions incorporated in the deed of licence and that he was free to participate in the tenders to be called for running telephone booth at the New Bus Station. However, instead of participating in the fresh tender notice issued on 10.07.2006 for allotment of site for running telephone booth at the New Bus Station, the petitioner filed Writ Petition No.14977 of 2006. This time, the learned Single Judge dismissed the writ petition by observing that the termination of licence was in accordance with the terms and conditions of the deed of licence. The learned Single Judge further held that the notice issued by the competent authority does not suffer from any legal infirmity and that rejection of the representation made by the writ petitioner (appellant herein) cannot be termed as arbitrary.

Shri A. Rama Rao, learned counsel for the appellant argued that the cancellation of the appellant's licence is liable to be invalidated because the same has resulted in violation of his fundamental right guaranteed under Article 19(1)(g) of the

Constitution. He then submitted that his client had spent lakhs of rupees for establishing the STD Booth at the Old Bus Station and, therefore, the learned Single Judge should have directed the respondents to allot alternative site to him.

Shri P. Vinayaka Swamy, learned counsel for the respondents pointed out that the tender process initiated vide notice dated 10.07.2006 has been finalized and the highest bidder has been granted licence to operate the booth at the New Bus Station.

In our opinion, the appellant's challenge to the cancellation of licence granted to him does not merit acceptance because the impugned action was taken by the competent authority in accordance with Clause 18 of the deed of licence. The appellant has neither pleaded nor any evidence has been produced before the Court to show that the decision to cancel his licence was taken due to extraneous reasons or with an ulterior motive. Therefore, we do not find any valid ground to quash notice dated 13.02.2006.

The appellant's claim for grant of licence to operate the booth at the New Bus Station cannot be entertained because the person in whose favour licence has been granted on the basis of bids received in pursuance of notice dated 10.07.2006 has not been impleaded as party to the writ petition/writ appeal.

For the reasons stated above, the appeal is dismissed. However, it is made clear that as and when tender process is initiated in future, the appellant shall be free to participate for allotment of site.

As a sequel to dismissal of the writ appeal,

W.A.M.P.No.2380 of 2006 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

03.11.2006
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